

HOUSE BILL 155

E1, D4

6lr1556
CF 6lr1559

By: **Delegates Dumais, Anderson, Angel, Atterbeary, Chang, Cluster, Hettleman, Kittleman, Malone, McComas, Moon, Morales, Rosenberg, Sanchez, Smith, Sophocleus, Valentino-Smith, and B. Wilson**

Introduced and read first time: January 21, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Stalking and Harassment**

3 FOR the purpose of repealing the requirement that certain conduct be malicious in order
4 to be prohibited conduct applicable to crimes related to stalking, harassment, and
5 misuse of electronic communications or interactive computer services; prohibiting a
6 person from engaging in a course of conduct where the person intends to cause or
7 knows or reasonably should have known that the conduct would cause serious
8 emotional distress to another; and generally relating to stalking, harassment, and
9 misuse of electronic communications or interactive computer services.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Law
12 Section 3–802, 3–803, and 3–805
13 Annotated Code of Maryland
14 (2012 Replacement Volume and 2015 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Criminal Law**

18 3–802.

19 (a) In this section, “stalking” means a [malicious] course of conduct that includes
20 approaching or pursuing another where:

21 **(1)** the person intends to place or knows or reasonably should have known
22 the conduct would place another in reasonable fear:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 [(1)] (i) 1. of serious bodily injury;
- 2 [(ii)] 2. of an assault in any degree;
- 3 [(iii)] 3. of rape or sexual offense as defined by §§ 3–303 through
4 3–308 of this title or attempted rape or sexual offense in any degree;
- 5 [(iv)] 4. of false imprisonment; or
- 6 [(v)] 5. of death; or

7 [(2)] (II) that a third person likely will suffer any of the acts listed in item
8 [(1)] (I) of this [subsection] ITEM; OR

9 (2) THE PERSON INTENDS TO CAUSE OR KNOWS OR REASONABLY
10 SHOULD HAVE KNOWN THAT THE CONDUCT WOULD CAUSE SERIOUS EMOTIONAL
11 DISTRESS TO ANOTHER.

12 (b) The provisions of this section do not apply to conduct that is:

- 13 (1) performed to ensure compliance with a court order;
- 14 (2) performed to carry out a specific lawful commercial purpose; or
- 15 (3) authorized, required, or protected by local, State, or federal law.

16 (c) A person may not engage in stalking.

17 (d) A person who violates this section is guilty of a misdemeanor and on conviction
18 is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

19 (e) A sentence imposed under this section may be separate from and consecutive
20 to or concurrent with a sentence for any other crime based on the acts establishing a
21 violation of this section.

22 3–803.

23 (a) A person may not follow another in or about a public place or [maliciously]
24 engage in a course of conduct that alarms or seriously annoys the other:

- 25 (1) with the intent to harass, alarm, or annoy the other;
- 26 (2) after receiving a reasonable warning or request to stop by or on behalf
27 of the other; and

1 (3) without a legal purpose.

2 (b) This section does not apply to a peaceable activity intended to express a
3 political view or provide information to others.

4 (c) A person who violates this section is guilty of a misdemeanor and on conviction
5 is subject to:

6 (1) for a first offense, imprisonment not exceeding 90 days or a fine not
7 exceeding \$500 or both; and

8 (2) for a second or subsequent offense, imprisonment not exceeding 180
9 days or a fine not exceeding \$1,000 or both.

10 3–805.

11 (a) (1) In this section the following words have the meanings indicated.

12 (2) “Electronic communication” means the transmission of information,
13 data, or a communication by the use of a computer or any other electronic means that is
14 sent to a person and that is received by the person.

15 (3) “Interactive computer service” means an information service, system,
16 or access software provider that provides or enables computer access by multiple users to
17 a computer server, including a system that provides access to the Internet and cellular
18 phones.

19 (b) (1) A person may not [maliciously] engage in a course of conduct, through
20 the use of electronic communication, that alarms or seriously annoys another:

21 (i) with the intent to harass, alarm, or annoy the other;

22 (ii) after receiving a reasonable warning or request to stop by or on
23 behalf of the other; and

24 (iii) without a legal purpose.

25 (2) A person may not use an interactive computer service to [maliciously]
26 engage in a course of conduct that inflicts serious emotional distress on a minor or places a
27 minor in reasonable fear of death or serious bodily injury with the intent:

28 (i) to kill, injure, harass, or cause serious emotional distress to the
29 minor; or

30 (ii) to place the minor in reasonable fear of death or serious bodily
31 injury.

1 (c) It is not a violation of this section for any of the following persons to provide
2 information, facilities, or technical assistance to another who is authorized by federal or
3 State law to intercept or provide electronic communication or to conduct surveillance of
4 electronic communication, if a court order directs the person to provide the information,
5 facilities, or technical assistance:

6 (1) a provider of electronic communication;

7 (2) an officer, employee, agent, landlord, or custodian of a provider of
8 electronic communication; or

9 (3) a person specified in a court order directing the provision of
10 information, facilities, or technical assistance to another who is authorized by federal or
11 State law to intercept or provide electronic communication or to conduct surveillance of
12 electronic communication.

13 (d) Subsection (b)(1) of this section does not apply to a peaceable activity intended
14 to express a political view or provide information to others.

15 (e) A person who violates this section is guilty of a misdemeanor and on conviction
16 is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2016.